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09/919,594	07/31/2001	Margaret Seiler	5246 P 003	2534

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EXAMINER

DODDS, HAROLD E

ART UNIT

PAPER NUMBER

2167

DATE MAILED: 03/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/919,594	SEILER ET AL.	
	Examiner Harold E. Dodds, Jr.	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 23 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-58 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 September 2004 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Oath/Declaration

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

Non-initialed and/or non-dated alterations have been made to the oath or declaration.
See 37 CFR 1.52(c).

Drawings

2. The drawings were received on 23 September 2004. These drawings are accepted.

Compact Disk Submission

3. The compact discs were received on 23 September 2004. These compact discs are accepted.

Affidavit - 37 CFR 1.131

4. The affidavit filed on 23 September 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Work (U.S. Patent Application Publication No. US 2002/0059201), McCall et al. (U.S. Patent Application Publication No. US 2002/0059228), Perell et al. (U.S. Patent No. 6,658,400), and Mikurak (U.S. Patent No. 6,606,744) references.

The evidence submitted is insufficient to establish a conception of the invention prior to the effective date of the Mikurak reference. While conception is the mental part

of the inventive act, it must be capable of proof, such as by demonstrative evidence or by a complete disclosure to another. Conception is more than a vague idea of how to solve a problem. The requisite means themselves and their interaction must also be comprehended. See *Mergenthaler v. Scudder*, 1897 C.D. 724, 81 O.G. 1417 (D.C. Cir. 1897). If the evidence submitted is insufficient to establish conception for the Mikurak reference it is likewise insufficient to establish conception for either of the Work, McCall, or Perell references. This failure to establish conception is discussed in the response to the third argument.

The evidence submitted is insufficient to establish diligence from a date prior to the date of reduction to practice of the Mikurak reference to either a constructive reduction to practice or an actual reduction to practice. If the evidence submitted is insufficient to establish diligence for the Mikurak reference it is likewise insufficient to establish diligence for either of the Work, McCall, or Perell references. This failure to establish diligence is discussed in the response to the fourth argument.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless —

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 49-51 and 53 are rejected under 35 U.S.C. 102(e) as being anticipated by Work (U.S. Patent Application Publication No. US 2002/0059201).

As per independent claim 49, the "...selecting a position from a preexisting set of positions..." at p. 9, par. 0100, p. 9, par. 0095, and p. 8, 0083.

"...and selecting a skill from a preexisting set of skills..." at p. 9, par. 0100, p. 9, par. 0095, and p. 8, 0083.

"...relating to the selected position..." at p. 9, par. 0100 and p. 8, 0083.

5. As per claim 50, the "...first selecting a field from a preexisting set of fields..." is taught by Work at p. 9, par. 0100, p. 13, par. 0154, and p. 8, 0083, the "...wherein the preexisting set of positions..." is taught by Work at p. 9, par. 0100, p. 9, par. 0095, and p. 8, 0083, and the "...relate to the selected field from the preexisting set of fields..." is taught by Work is taught by Work at p. 9, par. 0100, p. 13, par. 0154, and p. 8, 0083.

6. As per claim 51, the "...preexisting sets of positions, each preexisting set of positions..." is taught by Work at p. 9, par. 0100, p. 9, par. 0095, and p. 8, 0083, the "...relating to one field within the preexisting set of fields..." is taught by Work at p. 9, par. 0100, p. 13, par. 0154, and p. 8, 0083, the "...and preexisting sets of skills, each preexisting set of skills..." is taught by Work at p. 9, par. 0100, p. 9, par. 0095, and p. 8, 0083, and the "...relating to at least one position within the preexisting set of positions..." is taught by Work at p. 9, par. 0100, p. 9, par. 0095, and p. 8, 0083.

7. As per claim 53, the "...preexisting selection hierarchy is stored in

electronically readable memory...," is taught by Work at p. 9, par. 0095, p. 6, par. 0062, and p. 4, par 0042.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claims 1-6, 9-17, 19-22, 25-35, 37, 39-48, 52, 55, 56, and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Work (U.S. Patent Application Publication No. US 2002/0059201), McCall et al. (U.S. Patent Application Publication No. US 2002/0059228), and Speakman et al. (U.S. Patent No. 5,991,741).

10. Work renders obvious independent claim 1 by the following:
"...providing the potential positionee with a positionee information entry interface for electronically entering positionee information..." at p. 10-11, par. 0121.

"...comprising the potential positionee's actual qualifications..." at p. 3, par. 0028.

"...the positionee information being stored in a database..." at p. 3, par. 0028 and p. 6, par. 0059.

"...providing the potential positionor with a positionor information entry interface for electronically entering positionor information..." at p. 1, par. 0003, p. 12-13 at par. 0153, p. 3, par. 0020, and p. 6, 0068.

"...comprising at least one target qualification for a position..." at p. 8, par. 0083.

"...the positionor information being stored in the database..." at p. 6, par. 0068 and p. 8, par. 0083.

"...selecting qualified positions and classifying the qualified positions..." at p. 11, par. 0133, p. 7, par. 0082, and p. 8, par 0083.

Work does not teach the correlation of positionee and positionor information, creating a list of this information, providing the list for review, and using special program designations.

11. However, McCall teaches the correlation of positionee and positionor information, creating a list of this information, and providing the list for review as follows:

"...determining whether the positionee information correlates with the positionor information..." at p. 2, par. 0009 and p. 4, par. 0023.

"...creating a correlated information list of correlated information..." at p. 12, par. 0076 and p. 4, par. 0023.

"...and providing the correlated information for review..." at p. 4, par. 0023 and p.10-11, par. 0068.

It would have been obvious to one of ordinary skill at the time of the invention to combine McCall with Work to provide a report, which correlates the positionee and positioner information in order to match information on potential employers with information on potential employees to focus the attention of potential employers on those candidates that most closely meet the qualifications of their open positions. Work and McCall teach the use of related applications. They both teach the use of computers, the use of databases, the use of networks, the use of the Internet, the use of servers, the use of queries, the use of job-seekers, the use of potential employers, the use of data entry, the use of user interfaces, the use of lists, and the use of reports. Work provides the data entry of job-seeker and potential employer data, the use of user interfaces, and the use of databases and McCall provides the comparison of job-seeker and potential employer data and the production and display of lists containing the comparison data.

McCall does not teach using special program designations.

12. However, Speakman teaches the use of special program designation as follows:

"...with a special program designation..." col. 6, lines 62-67 and col. 7, lines 1-3.

It would have been obvious to one of ordinary skill at the time of the invention to combine Speakman with Work and McCall to provide special program information in order to promote coordination between the prospective employers and the agency providing the special programs. Work, McCall, and Speakman teach the use of related applications. They teach the use of computers, the use of databases, the use of

networks, the use of servers, the use of queries, the use of job-seekers, the use of potential employers, the use of data entry, the use of user interfaces, the use of lists, and the use of reports. Work provides the data entry of job-seeker and potential employer data, the use of user interfaces, and the use of databases, McCall provides the comparison of job-seeker ad potential employer data and the production and display of lists containing the comparison data, and Speakman provides the special programs.

13. As per claim 2, the "...correlated information is provided to the potential positionee for review...", is taught by McCall at p. 12, par. 0076, p. 2, par. 0009, and p. 10-11, par. 0068.

14. As per claim 3, the "...correlated information is provided to the potential positionor for review...", is taught by McCall at p. 12, par. 0076, p. 2, par. 0009, and p. 10-11, par. 0068.

15. As per claim 4, the "...actual qualifications comprises a skill of the potential positionee...", is taught by McCall at p. 3-4, par. 0018.

16. As per claim 5, the "...positionee information is maintained confidential...", is taught by Work at p. 6, par. 0068 and p. 10, col. 0120.

17. As per claim 6, the "...positionee information further comprises contact information for receiving communication...", is taught by Work at p. 2, par. 18.

18. As per claim 9, the "positionee information further comprises work history information...", is taught by Work at p. 6, par. 0068 and p. 2, par. 0018.

19. As per claim 10, the "...positionee information further comprises education information...", is taught by Work at p. 6, par 0068 and p. 2, par. 0018.

20. As per claim 11, the "...actual qualifications further comprise at least one skill selected from a positionee skills listing..." is taught by McCall at p. 2, par. 0009 and p. 12, par. 0079.

21. As per claim 12, the "...positionee information further comprises at least one position category..." is taught by McCall at p. 2, par. 0011, the "...and the actual qualifications further comprise at least one skill..." is taught by Work at p. 8, par. 0083, and the "...relating to the position category..." is taught by McCall at p. 2, par. 0011.

22. As per claim 13, the "...positionor information further comprises positionor entity information..." is taught by McCall at p. 17, par. 0111.

23. As per claim 14, the "...of verifying the existence of the potential positionor..." is taught by Work at p. 11, par. 0126 and p. 1, par. 0003 and the "...using the positionor entity information..." is taught by McCall at p. 17, par. 0111.

24. As per claim 15, the "...positionor information further comprises the positionor contact information..." is taught by Work at p. 13-14, par. 0171-0172.

25. As per claim 16, the "...positionor information comprises a plurality of target qualifications for the position..." is taught by Work at p. 8, par. 0083.

26. As per claim 17, the "...positionor information further comprises salary information required for the position..." is taught by McCall at p. 3, par. 0009 and p. 13, par. 0087.

27. As per claim 19, the "...position or information further comprises site location information for the position...", is taught by Work at p. 12, par. 0141.

28. As per claim 20, the "...position or information further comprises a position category...", is taught by McCall at p. 2, par. 0009 and page 2, par. 0011.

29. As per claim 21, the "...position category...", is taught by McCall at p. 2, par. 0011

and the "...comprises at least one skill required for the position...", is taught by Work at p. 8, par. 0083.

30. As per claim 22, the "...position category...", is taught by McCall at p. 2, par. 0011,

the "...comprises at least one skill that would be nice to have...", is taught by Work at p. 14, par. 0187,

and the "...but not required...", is taught by Work at p. 12, par. 0138.

31. As per claim 23, the "...position or information...", is taught by Work at p. 1, par. 0005

and the "...comprises special programs participation information...", is taught by Speakman at col. 6, lines 62-67 and col. 7, lines 1-3.

32. As per claim 25, the "...target qualifications...", is taught by Work at p. 8, par. 0083

and the "...further comprise at least one skill selected from a position or skills listing...", is taught by McCall at p. 2, par. 0009 and p. 14-15, par. 0098.

33. As per claim 26, the "...target qualifications..." is taught by Work at p. 8, par. 0083,

the "...further comprise at least one skill selected from a positionor skills listing..." is taught by McCall at p. 2, par. 0009 and p. 14-15, par. 0098, the "...wherein the actual qualifications..." is taught by McCall at p. 30, par. 0184 and p. 12, par. 0078,

the "...further comprise at least one skill selected from a positionee skills listing..." is taught by McCall at p. 14-15, par. 0098,

the "...and wherein the step of determining whether the positionee information correlates with the positionor information..." is taught by McCall p. 2, par. 0009 and p. 14-15, par. 0098,

the "...comprises determining whether the at least one skill selected from the positionor skills listing..." is taught by McCall at p. 2, par. 0009 and p. 14-15, par. 0098, and the "...correlates with the at least one skill selected from the positionee skills listing..." is taught by McCall at p. 14-15, par. 0098.

34. As per claim 27, the "...correlated information comprises only potential positionees for which a correlation has taken place..." is taught by McCall at p. 14-15, par. 0098 and p. 31-32, par. 0199.

35. As per claim 28, the "...correlated information comprises only potential positionors for which a correlation has taken place..." is taught by McCall at p. 14-15, par. 0098 and p. 2, par. 0009.

36. As per claim 29, the "...positionee selects one or more skills from a skills listing..." is taught by McCall at p. 14-15, par 0098 and the "...to identify actual qualifications..." is taught by McCall at p. 30, par. 0184 and p. 12, par. 0078.

37. As per claims 30 and 32, the "...particular skills can be added and/or deleted to/from the skills listing..." is taught by McCall at p. 22, par. 0141 and p. 30, par. 0184.

38. As per claim 31, the "...positionor selects one or more skills from a skills listing..." is taught by McCall at p. 2, par. 0009 and p. 14-15, par. 0098 and the "...to identity target qualifications..." is taught by Work at p. 8, par. 0083.

39. As per claim 33, the "...positionee information and/or the positionor information can be edited..." is taught by McCall at p. 2, par. 0009 and p. 22, par. 0141.

40. As per claim 34, the "...correlation is determined again..." is taught by McCall at p. 14-15, par. 0098 and the "...after any editing of the positionee information or the positionor information..." is taught by McCall at p. 2, par. 0009 and p. 22, par. 0141.

39. As per claim 35, the "...correlated information..." is taught by McCall at p. 14-15, par. 0098 and p. 2, par. 0009 and the "...is rank-ordered according to ranking criteria..." is taught by Work at p., 14, par. 0175.

40. As per claim 37, the "...correlated information list is a trial correlated information list..." is taught by McCall at p. 14-15, par. 0098 and p. 3-4, par. 0018,

the "...including only the number of correlated potential positionees for a potential positionor..." is taught by McCall at p. 14-15, par. 0098 and p. 2, par. 0009, and the "...without an identification of the potential positionees..." is taught by Work at p. 10-11, par. 0121.

43. As per claim 39, the "...correlated information list comprises a list..." is taught by McCall at p. 14-15, par. 0098, "...of correlated potential positionors for consideration by one of the potential positionees..." is taught by McCall at p. 2, par. 0009, the "...wherein the correlated information list..." is taught by McCall at p. 14-15, par. 0098, the "...further comprises a list of correlated potential positionees for consideration by one of the potential positionors..." is taught by McCall at p. 14-15, par. 0098 and p. 2, par. 0009, the "...and wherein the potential positionee can choose to be removed..." is taught by McCall at p. 2, 0009 and p. 22, par. 0141, the "...from the correlated information list..." is taught by McCall at p. 14-15, par. 0098, and the "...from which the potential positionor considers such potential positionee..." is taught by McCall at p. 2, par. 0009.

44. As per claim 40, the "...at least one step of providing is performed over a computer network, such as a LAN or the Internet..." is taught by Work at p. 1, par. 0002.

45. As per claim 41, the "...method is performed over a computer network, such as a LAN or the Internet...", is taught by Work at p. 1, par. 0002.

46. As per claim 42, the "...positionee information is inputted over a computer network, such as a LAN or the Internet...", is taught by Work at p. 10-11, par. 0121 and p. 1, par. 0002.

47. As per claim 43, the "...positionor information is inputted over a computer network, such as a LAN or the Internet...", is taught by Work at p. 1, par. 0003, p. 12-13, par. 0153, p. 3, par. 0020, p. 6, par. 0068, and p. 1, par. 0002.

48. As per claim 44, the "...correlated information...", is taught by McCall at p. 14-15, par. 0098

and the is provided over a computer network, suoh as a LAN or the Internet..., is taught by Work at p. 1, par. 0002.

49. As per claim 45, the "...correlated information...", is taught by McCall at p. 14-15, par. 0098

and the "...is provided via e-mail, phone, fax, or letter...", is taught by Work at p. 1, par. 0007.

50. As per claim 46, the "...positionor information further comprises additional information entered by the potential positionor for indicating any other information relating to the potential positionor...", is taught by Work at p. 1, par. 0003, p. 12-13, par. 0153, p. 3, par. 0020, and p. 8, par. 0090

and the "...which may assist the potential positionee in considering the potential positionor for the position..." is taught by Work at p. 1, par. 0003, p. 14, par. 0187, and p 10-11, par. 0121.

51. As per claim 47, the "...correlated information list comprises a list of correlated potential positionees..." is taught by McCall at p. 12, par. 0076 and p. 2, par. 0009

and the "...for consideration by one of the potential positionors..." is taught by McCall at p. 23, par. 0149 and p. 2, par. 0009.

52. As per claim 48, the "...correlated information list comprises a list of correlated potential positionors..." is taught by McCall at p. 12, par. 0076 and p. 2, par. 0009

and the "...for consideration by one of the potential positionees..." is taught by McCall at p. 23, par. 0149 and p. 2, par. 0009.

53. As per independent claim 55, the "...providing the potential positionee with a positionee information entry interface for electronically entering positionee information..." is taught by Work at p. 10-11, par. 0121, the "...comprising whether the potential positionee's..." is taught by Work at p. 3, par. 0028,

the "...qualifies for a special program..." is taught by Speakman at col. 6, lines 62-67 and col. 7, lines 1-3,

the "...the positionee information being stored in a database..." is taught by Work at p. 3, par. 0028 and p. 6, par. 0059,

the "...providing the potential positionor with a positionor information entry interface for electronically entering positionor information..." is taught by Work at p. 1, par. 0003, p. 12-13 at par. 0153, p. 3, par. 0020, and p. 6, 0068,

the "...comprising whether to prospective positioner is participating..." is taught by Work at p. 1, par. 0003 and p. 12, par. 0139,

the "...in the special program..." is taught by Speakman at col. 6, lines 62-67 and col. 7, lines 1-3,

the "...the positionor information being stored in the database..." is taught by Work at p. 6, par. 0068 and p. 8, par. 0083,

the "...determining whether the positionee information correlates with the positionor information..." is taught by McCall at p. 2, par. 0009 and p. 4, par. 0023,

the "...creating a correlated information list of correlated information..." is taught by McCall at p. 12, par. 0076 and p. 4, par. 0023,

and the "...and providing the correlated information for review..." is taught by McCall at p. 4, par. 0023 and p.10-11, par. 0068.

54. As per claim 56, the "...positionor information comprises whether the potential positionor is participating in..." is taught by Work at p. 1, par. 0003 and p. 12, par. 0139

and the "...one or more of the following special programs: (a) DOC 7-13; (b) MANG; (c) TANF; (d) WOTC; (e) HTF; (f) NAFS; (g) Title 1; (h) International Registry; (i) Sr. Comm. Service Employment Program; and (j) Title 11..." is taught by Speakman at col. 6, lines 62-67 and col. 7, lines 1-3.

55. As per independent claim 58, the "...receiving positionee information comprising the potential positionee's actual qualifications..." is taught by Work at p. 15, par. 0206 and p. 3, par. 0028,

the "...positionee information being stored in a database..." is taught by Work at p. 3, par. 0028 and p. 6, par. 0059,

the "...receiving positionor information comprising at least one target qualification for a position..." is taught by Work at p. 15, par. 0206 and p. 8, par. 0083,

the "...positionor information being stored in the database..." is taught by Work at p. 8, par. 0083 and p. 6, par. 0059,

the "...correlating the positionee information with the positionor information..." is taught by McCall at p. 11, par 0023 and p. 2, par 0009,

the "...ranking the correlated information based upon the potential positionee's qualifications..." is taught by McCall at p. 2, par 0011, p. 4, par. 0023, and p. 3, par. 0028,

the "...displaying the correlated information to the potential positionor..." is taught by McCall at p. 4, par. 0024, p. 4, par, 0023, and p. 3, 0009,

the "...and, receiving a command to take a recruiting action..." is taught by McCall at p. 3-4, par 0018 and p. 3, par. 0009,

the "...and in response to the command..." is taught by McCall at p. 3-4, par. 0018, and the "...displaying the positionor information to the potential positionee..." is taught by Work at p. 17, par. 0249, p. 8, par 0083, and p. 3, par. 0028.

56. Claims 7 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Work, McCall, and Speakman as applied to claim 1 above, and further in view of Perell et al. (U.S. Patent No. 6,658,400).

As per claim 7, the "...positionee information..." is taught by Work at p. 10-11, par 0121, but the "...further comprises veteran information..." is not taught by either Work or McCall,

However, Perell teaches the use of veteran information as follows:

"... Name	statement of career goals and philosophy
Date of Birth	awards
Place of Birth	membership/organizations
Social Security Number	political offices held or sought
Drivers License state and number	Military Service (y/n)
Postal Address	If in Service, also provide:
E-mail Address	Date range of service
Membership type (dropdown menu)	Branch
education	Type of discharge
publications	Billing information
accomplishments	Password
appointments	Login ID
prior positions..." at col. 11, lines 42-54.	(used with password to log into DCVS)

It would have been obvious to one of ordinary skill at the time of the invention to combine Perell with Work, McCall, and Speakman to provide veteran information in order to comply with laws that grant special consideration for employment of men and women with previous military service. Work, McCall, Speakman, and Perell teach the use of related applications. They teach the use of computers, the use of databases, the use of networks, the use of servers, the use of queries, the use of job-seekers, the use of potential employers, the use of data entry, the use of user interfaces, the use of lists, and the use of reports. Work provides the data entry of job-seeker and potential

employer data, the use of user interfaces, and the use of databases, McCall provides the comparison of job-seeker ad potential employer data and the production and display of lists containing the comparison data, Speakman provides the special programs, and Perell provides veteran and benefits information.

57. As per claim 18, the "...position or information...," is taught by Work at p. 1, par. 0005

and the "...further comprises benefits information for the position...," is taught by Perell at col. 8, lines 64-67.

58. As per claim 36, the "...correlated information within the correlated information list...," is taught by McCall at p. 14-15, par. 0098 and p. 2, par. 0009, the "...is rank-ordered according to one or more of the following criteria...," is taught by Work at p., 14, par. 0175,
the "...skills that would be nice to have...," is taught by Work at p. 14, par. 0187,
the "...but not required for the position...," is taught by Work at p. 12, par. 0138 and p. 8, par. 0083,
the "...special programs information...," is taught by Speakman at col. 6, lines 62-67 and col. 7, lines 1-3,
and the "...and veteran information...," is taught by Perell col. 11, lines 42-54.

59. Claims 8 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Work, McCall, and Speakman as applied to claim 1 above, and further in view of Joao (U.S. Patent No. 6,662,194).

As per claim 8, the "...positionee information..." is taught by Work at p. 10-11, par 0121,

but the "...further comprises transportation information for position site availability..." is not taught by either Work, McCall, or Speakman.

However, Joao teaches the use of transportation information and position site availability as follows:

"...For example, the present invention can provide links to information regarding the location of an employer, links to a travel agent, links to transportation companies, rental car companies, hotels and other lodging establishments, as well as links to resume services, employment agencies, recruiters, temporary agencies, etc..." at col. 37, lines 31-36.

It would have been obvious to one of ordinary skill at the time of the invention to combine Joao with Work, McCall, and Speakman to provide transportation information and position site information in order to determine whether the site of the prospective employee may be accessed by public transportation. Work, McCall, Speakman, and Joao teach the use of related applications. They teach the use of computers, the use of databases, the use of networks, the use of servers, the use of queries, the use of job-seekers, the use of potential employers, the use of data entry, the use of user interfaces, the use of lists, and the use of reports. Work provides the data entry of job-seeker and potential employer data, the use of user interfaces, and the use of databases, McCall provides the comparison of job-seeker ad potential employer data and the production and display of lists containing the comparison data, Speakman provides the special programs, and Joao provides transportation and position site availability and the posting of employment positions.

60. As per claim 24, the "...position or information..." is taught by Work at p. 1, par. 0005

and the "...comprises position posting information for indicating that the position is available..." is taught by Joao at col. 29, lines 6-18.

61. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Work, McCall, and Speakman as applied to claim 1 above, and further in view of Mikurak (U.S. Patent No. 6,606,744).

As per claim 38, the "...placing an order for a position..." is not taught by either Work, McCall, or Speakman.

However, Mikurak teaches placing an order for a position as follows:

"...It is now recognized that many functions such as traditional order entry systems and the like will someday be carried out over computer networks by allowing a customer to place orders for goods and services directly with an online service..." at col. 107, lines 28-32.

"...Describes open opportunities and facilitates matching potential employees to positions..." at col. 128, lines 60-61.

It would have been obvious to one of ordinary skill at the time of the invention to combine Mikurak with Work, McCall, and Speakman to permit prospective employers to place orders for positions in order to provide a means for prospective employers to notify employment agencies of the requirements for potential positions. Work, McCall, Speakman, and Mikurak teach the use of related applications. They teach the use of computers, the use of databases, the use of networks, the use of servers, the use of queries, the use of job-seekers, the use of potential employers, the use of data entry, the use of user interfaces, the use of lists, and the use of reports. Work provides the

data entry of job-seeker and potential employer data, the use of user interfaces, and the use of databases, McCall provides the comparison of job-seeker ad potential employer data and the production and display of lists containing the comparison data, Speakman provides the special programs, and Mikurak provides placing orders for employment positions.

62. Claims 52, 54, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Work (U.S. Patent Application Publication No. US 2002/0059201) and McCall et al. (U.S. Patent Application Publication No. US 2002/0059228).

63. Work renders obvious independent claim 54 by the following:

“...providing the potential positionee with a positionee information entry interface for electronically entering positionee information...” at p. 10-11, par. 0121.

“...comprising the potential positionee's actual qualifications...” at p. 3, par. 0028.

“...the positionee information being stored in a database...” at p. 3, par. 0028 and p. 6, par. 0059.

“...providing the potential positionor with a positionor information entry interface for electronically entering positionor information...” at p. 1, par. 0003, p. 12-13 at par. 0153, p. 3, par. 0020, and p. 6, 0068.

“...comprising at least one target qualification for a position...” at p. 8, par. 0083.

“...the positionor information being stored in the database...” at p. 6, par. 0068 and p. 8, par. 0083.

Work does not teach the correlation of positionee and positionor information, creating a list of this information, providing the list for review, and using special program designations.

64. However, McCall teaches the correlation of positionee and positionor information, creating a list of this information, and providing the list for review as follows:

“...determining whether the positionee information correlates with the positionor information...” at p. 2, par. 0009 and p. 4, par. 0023.

“...creating a correlated information list of correlated information...” at p. 12, par. 0076 and p. 4, par. 0023.

“...and providing the correlated information for review...” at p. 4, par. 0023 and p.10-11, par. 0068.

It would have been obvious to one of ordinary skill at the time of the invention to combine McCall with Work to provide a report, which correlates the positionee and positioner information in order to match information on potential employers with information on potential employees to focus the attention of potential employers on those candidates that most closely meet the qualifications of their open positions. Work and McCall teach the use of related applications. They both teach the use of computers, the use of databases, the use of networks, the use of the Internet, the use of servers, the use of queries, the use of job-seekers, the use of potential employers, the use of data entry, the use of user interfaces, the use of lists, and the use of reports. Work provides the data entry of job-seeker and potential employer data, the use of user interfaces, and the use of databases and McCall provides the comparison of job-seeker

ad potential employer data and the production and display of lists containing the comparison data.

65. As per claim 52, the "...wherein fields..." is taught by Work at p. 13, par. 0154,

the "...can be added or deleted..." is taught by McCall at p. 22, par. 0141,

the "...wherein positions..." is taught by Work at p. 8, par. 0083,

the "...can be added or deleted..." is taught by McCall at p. 22, par. 0141,

and the "...and wherein skills can be added or deleted..." is taught by McCall at p. 3-4, par. 0018 and p. 22, par. 0141.

66. As per independent claim 57, the "...storing information regarding the potential positionee's qualifications within a computer database..." is taught by Work at p. 3, par. 0028 and p. 6, par 0029,

the "...storing information regarding a target qualification for a position within a computer database..." is taught by Work at p. 8, par 0083 and p. 6, par. 0059,

the "...correlating the stored information..." ia taught by McCall at p. 4, par 0025 and p. 3, par. 0017,

the "...regarding the potential positionee's qualifications with the information regarding the target qualification..." is taught by Work at p. 3, par 0028 and p. 8, par 0083,

the "...classifying a portion of the positions..." is taught by Work at p. 7, par. 0082 and p. 8, par 0083,

the "...with a special program designation..." is taught by Speakman col. 6, lines 62-67 and col. 7, lines 1-3,

and the "...and, outputting the correlated information in a user readable format..." is taught by McCall at p. 4, par. 0024, p. 4, par. 0023, and p. 13, par. 0088.

Response to Arguments

67. Applicants' arguments filed 23 September 2004 have been fully considered but they are not persuasive. In the first argument for the Oath/Declaration on page 13, paragraph 5, the Applicants state:

"Pursuant to 37 CFR 1.52(c), any alterations to the oath or declaration should be "dated and initialed or signed by the applicant on the same sheet of paper (emphasis added)." Each of the alterations made to the filed declaration is signed by the applicant on the same sheet of paper. Therefore, the requirements of 37 CFR 1.52(c) have been met, and the declaration is not defective."

The Examiner disagrees. The Oath/Declaration as filed does not indicate when or by who the address corrections were made.

68. In the second argument for the Affidavit on page 15, paragraph 2, the Applicants state:

"Declarations pursuant to 37 CFR § 1.131 are being submitted from the assignee and from the joint inventors from whom it was possible to obtain declarations. It was impossible to obtain declarations from the remainder of the joint inventors. Joint inventor Raymond Jackson is deceased. The other joint inventors for whom no declaration is being submitted were unreachable even after extensive effort by the undersigned attorney, James P. Muraff. These efforts were conducted and coordinated by Mr. Muraff, and utilized the services of attorneys Nicholas C. Pruhs, Reg. No. 52,136, and Thomas Burton, Reg. No. 47,464. In addition, the employers of the joint inventors at the time of invention were also utilized in attempting to obtain these declarations. The employers of the inventors during the relevant period were the assignee of the present application, the Illinois Department of Employment Security, and an outside contractor, Chicago Systems Group. Both of these employers cooperated in attempting to obtain all of the declarations from the joint inventors, but these extensive efforts were only partially successful. However, pursuant to 37 CFR § 1.131 and MPEP 715.04, the declaration of the assignee in conjunction with the declarations of less than all of the joint inventors is sufficient."

The Examiner disagrees. MPEP 715.04 states:

The following parties may make an affidavit or declaration under 37 CFR 1.131:

- (A) All the inventors of the subject matter claimed.
- (B) An affidavit or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection. For example, one of two joint inventors is accepted where it is shown that one of the joint inventors is the sole inventor of the claim or claims under rejection.

The statement by the Applicants is only a statement, which provides no proof that a *bona fide* effort was made to obtain the signatures of all of the applicants. A petition under 37 CFR § 1.47 must first be submitted whenever an affidavit under 37 CFR § 1.131 when signatures of less than all of the applicants is made. In the case of a deceased inventor, 37 CFR § 1.42 states:

In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent. Where the inventor dies during the time intervening between the filing of the application and the granting of a patent thereon, the letters patent may be issued to the legal representative upon proper intervention.

In order for an affidavit under 37 CFR § 1.131 to be considered, a petition under 37 CFR § 1.47 must be submitted with the proper documentation. The arguments on conception and diligence are answered in separate sections.

69. In the third argument for the Affidavit on page 2 of the affidavit, paragraph 4, the Applicants state:

"I have reviewed the document comprising Exhibit A and find that this document represents what I believe to be a true copy of the original record generated contemporaneously with my research and development of the invention coinciding with the claims of the above-identified application. This document supports that there was a conception and/or reduction to practice of the invention of the claims in the above-identified application of a date earlier than November 22, 1999, the effective date of the relevant subject matter of the earliest cited Publication listed above."

The Examiner disagrees. MPEP 715.07 states:

I. GENERAL REQUIREMENTS

The affidavit or declaration and exhibits must clearly explain which facts or data applicant is relying on to show completion of his or her invention prior to the particular date. Vague and general statements in broad terms about what the exhibits describe along with a general assertion that the exhibits describe a reduction to practice "amounts essentially to mere pleading, unsupported by proof or a showing of facts" and, thus, does not satisfy the requirements of 37 CFR 1.131(b). In re Borkowski, 505 F.2d 713, 184 USPQ 29 (CCPA 1974). Applicant must give a clear explanation of the exhibits pointing out exactly what facts are established and relied on by applicant. 505 F.2d at 718-19, 184 USPQ at 33. See also In re Harry, 333 F.2d 920, 142 USPQ 164 (CCPA 1964) (Affidavit "asserts that facts exist but does not tell what they are or when they occurred.").

The Applicants have not provided a conception date that supercedes the filing date of the patent application in the body of the affidavit. Qualifying dates are provided in Appendix A, but these dates are not listed in the actual affidavit. Appendix A does not provide proof of conception. In order to provide proof of conception, an exhibit should address every limitation in the independent claims. Page 2-4 of the Web Site Architecture appears to address some of the functionality of the proposed application. However, the Examiner was unable to find any mention of "special program" designations on this page or in any other sections of Appendix A.

70. In the fourth argument for the Affidavit on page 2 of the affidavit, paragraph 3, the Applicants state:

"At least as early as November 22, 1999, I conceived of the invention as originally claimed in the above-identified application. I worked diligently to reduce to practice the invention until filing of Provisional Patent Application 60/222,689 on August 2, 2000, and/or until actual reduction to practice of the invention."

The Examiner disagrees. MPEP 715.07(a) states:

Where conception occurs prior to the date of the reference, but reduction to practice is afterward, it is not enough merely to allege

that applicant or patent owner had been diligent. Ex parte Hunter, 1889 C.D. 218, 49 O.G. 733 (Comm'r Pat. 1889). Rather, applicant must show evidence of facts establishing diligence.

There is no proof of diligence from the alleged date of conception to the priority dates of any of the Work, McCall, Perell, or Mikurak patents.

71. In the fifth argument for claims 1-48, 52, and 54-56 on page 15, paragraph 3 and page 16, paragraphs 1-3, the Applicants state:

"By the March 19, 2004 Office Action, the Examiner rejected claims 49-51 and 53 under 35 U.S.C. §102(e), as allegedly being anticipated by Work, U.S. Patent Application No. 2002/0059201. Additionally, claims 1-48, 52, and 54-56 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Work in combination with McCall et al., U.S. Patent Application No. 2002/0059228. Applicants respectfully traverse these rejections based on the cited Work and McCall et al. references.

Applicants respectfully disagree that Work anticipates, or that Work in combination with McCall et al. renders obvious, any of Applicants' claims. However, Applicants need not reach these issues because the Work reference has a priority date of May 9, 2000, and the McCall et al. reference has a priority date of July 31, 2000, both of which are after the date of invention of Applicants' patent application. Specifically, Applicants have submitted herewith, pursuant to 37 C.F.R. § 1.131, declarations of prior invention which predate these cited references.

In Applicants' § 1.131 declarations, Applicants establish completion of the claimed subject matter in this application as of a date prior to May 9, 2000. Accordingly, the patent publications from Work and McCall et al. are not prior art to this application. As such, Applicants respectfully request reconsideration of the present §§ 102(e) and 103(a) rejections which are based upon either Work or McCall et al."

The Examiner disagrees. Work and McCall are valid references since the affidavit pursuant to 37 C.F.R. § 1.131 is defective and the priority date of this proposed invention remains as August 2, 2000, the date of the filing of Preliminary Application No. 60/222,869.

72. In the sixth argument for claims 7, 18, and 36 on page 16, paragraphs 4-6, the Applicants state:

"The Examiner has also rejected claims 7, 18, and 36 under 35 U.S.C. § 103(a) as being unpatentable over Perell et al., U.S. Patent No. 6,658,400, in combination with

both Work and McCall et al. Applicants respectfully traverse these rejections based on the cited references.

Applicants respectfully disagree that Perell et al. in combination with the other cited references renders obvious any of the rejected claims. However, Applicants need not reach these issues because the cited Perell et al. reference has a priority date of December 4, 1999, which is after the date of invention of Applicants' patent application. In Applicants' § 1.131 declarations, Applicants establish completion of the claimed subject matter in this application as of a date prior to December 4, 1999. Accordingly, the patent issued to Perell et al. is not prior art to this application. As such, Applicants respectfully request removal of this reference as a basis for rejection."

The Examiner disagrees. The responses to the second through the fifth arguments have shown that both Work and McCall are valid references. Likewise, Perell is a valid reference since the affidavit pursuant to 37 C.F.R. § 1.131 is defective and the priority date of this proposed invention remains as August 2, 2000, the date of the filing of Preliminary Application No. 60/222,869.

73. In the seventh argument for claim 38 on page 16, paragraphs 7 and 8 and page 17, paragraphs 1 and 2, the Applicants state:

"The Examiner has also rejected claim 38 under 35 U.S.C. § 103(a) as being unpatentable over Mikurak, U.S. Patent No. 6,606,744, in combination with both Work and McCall et al. Applicants respectfully traverse these rejections based on the cited references.

Applicants respectfully disagree that Mikurak in combination with the other cited references renders claim 38 obvious. However, Applicants need not reach this issue because the cited Mikurak reference has a priority date; of November 22, 1999, which is after the date of invention of Applicants' patent application.

In Applicants' § 1.131 declarations, Applicants establish completion of the claimed subject matter in this application as of a date prior to November 22, 1999.

Accordingly, the patent issued to Mikurak is not prior art to this application. As such, Applicants respectfully request removal of this reference as a basis for rejection, and the allowance of claim 38."

The Examiner disagrees. The responses to the second through the fifth arguments have shown that both Work and McCall are valid references. Likewise, Mikurak is a valid reference since the affidavit pursuant to 37 C.F.R. § 1.131 is defective and the priority

date of this proposed invention remains as August 2, 2000, the date of the filing of Preliminary Application No. 60/222,869.

74. In the eighth argument for claims 8, 23, 24, 36, 55, and 56 on page 17, paragraph 4, the Applicants state:

"Other references, including Speakrnan, U.S. Patent No. 5,991,741, and Joao, U.S. Patent No. 6,662,194, were cited under 35 U.S.C. § 103(a) to reject pending claims. Specifically, claims 8, 23, 24, 36, 55, and 56 were rejected. However, both Speakman and Joao were cited as secondary references in combination with both Work and McCall et al. The removal of Work and McCall et al. as prior art references removes the basis for rejecting these claims."

The Examiner disagrees. Work and McCall are valid references since the affidavit pursuant to 37 C.F.R. § 1.131 is defective and the priority date of this proposed invention remains as August 2, 2000, the date of the filing of Preliminary Application No. 60/222,869.

75. In the ninth argument for independent claim 1 on page 17, paragraph 6 and page 18, paragraph 1, the Applicants state:

"Amended claim 1 now includes an additional element which is not taught or suggested in any of the cited prior art references. Amended claim 1 now includes, "selecting qualified positions and classifying the qualified positions with a special program designation."'"

The Examiner disagrees. Independent claim 1 as amended is rendered obvious by a combination of references from Work, McCall, and Speakman. The responses to the second through the fifth arguments have shown that both Work and McCall as valid references.

76. In the tenth argument for new independent claims 57 and 58 on page 17, paragraph 6 and page 18, paragraph 1, the Applicants state:

"New claims 57-58 have been added to the pending claims. Each of the new claims includes novel and non-obvious features over the previously cited prior art. Among other things, the cited prior art does not teach or suggest a method of matching a potential positionee and a potential positionor comprising the step of, "a classifying a portion of the positions with a special program designation," as claimed in amended claim 57. New claim 58 also includes novel and non-obvious elements, and combinations of elements, which are not taught or suggested anywhere in the cited prior art."

The Examiner disagrees. Independent claims 57 and 58 are rendered obvious by a combination of references from Work McCall and Work, McCall, and Speakman, respectively. The responses to the second through the fifth arguments have shown that both Work and McCall as valid references.

Conclusion

77. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

78. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harold E. Dodds, Jr. whose telephone number is (571)-272-4110. The examiner can normally be reached on Monday - Friday 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Breene can be reached on (571)-272-4107. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Harold E. Dodds, Jr.
Patent Examiner
March 16, 2005



SHELIA ROBINSON
PRIMARY EXAMINER